

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALAMAR CYRIL HOUSTON,

Plaintiff,

No. CIV S-03-1107 LKK KJM P

vs.

E. ROGERS, et al.,

Defendants.

ORDER

On June 28, 2005, the court ordered plaintiff to show cause why this action should not be dismissed for plaintiff's failure to follow court orders. Despite being ordered to do so, plaintiff has not filed proofs of service upon defendants with respect to certain documents filed with the court. In plaintiff's response to the court's order to show cause, plaintiff provides an affidavit indicating he has served all documents filed in this matter upon defendants. Good cause appearing, the court will discharge the June 28, 2005 order to show cause and, in light of defendants' motion to vacate the prior scheduling order, set a schedule for the remainder of this action.

Also, plaintiff has asked that the court allow him to subpoena certain documents from defendants. Plaintiff is informed that court permission is not necessary for discovery requests and that neither discovery requests served on an opposing party nor that party's

1 responses should be filed until such time as a party becomes dissatisfied with a response and  
2 seeks relief from the court under the Federal Rules of Civil Procedure. Discovery requests  
3 between the parties shall not be filed with the court unless, and until, they are at issue.

4 In accordance with the above, IT IS HEREBY ORDERED that:

5 1. The court's June 28, 2005 order to show cause is discharged;

6 2. Plaintiff's July 13, 2005 "Subpoena For Production Of Discovery" shall be  
7 placed in the court's file and disregarded.

8 3. Defendants' motion to vacate the January 31, 2005 scheduling order is granted;  
9 the new schedule for this matter shall be as set forth below.

10 4. The parties may conduct discovery until November 17, 2005. Any motions  
11 necessary to compel discovery shall be filed by that date. All requests for discovery pursuant to  
12 Fed. R. Civ. P. 31, 33, 34 or 36 shall be served not later than sixty days prior to that date.

13 5. All pretrial motions, except motions to compel discovery, shall be filed on or  
14 before January 17, 2006. Motions shall be briefed in accordance with paragraph 7 of this court's  
15 order filed December 1, 2004.

16 6. Plaintiff shall file and serve his pretrial statement and any motions necessary to  
17 obtain the attendance of witnesses at trial on or before March 17, 2006. Defendants shall file  
18 their pretrial statement on or before March 31, 2006. The parties are advised that failure to file a  
19 pretrial statement may result in the imposition of sanctions, including dismissal of this action.

20 7. Pretrial conference (as described in Local Rule 16-282) is set in this case for  
21 May 17, 2006, before the magistrate judge. The pretrial conference shall be conducted on the file  
22 only, without appearance by either party.

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1                   8. This matter is set for jury trial before the Honorable Lawrence K. Karlton on  
2 August 14, 2006, at 10:00 a.m. in Courtroom 4.

3 DATED: October 12, 2005.

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6 UNITED STATES MAGISTRATE JUDGE  
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